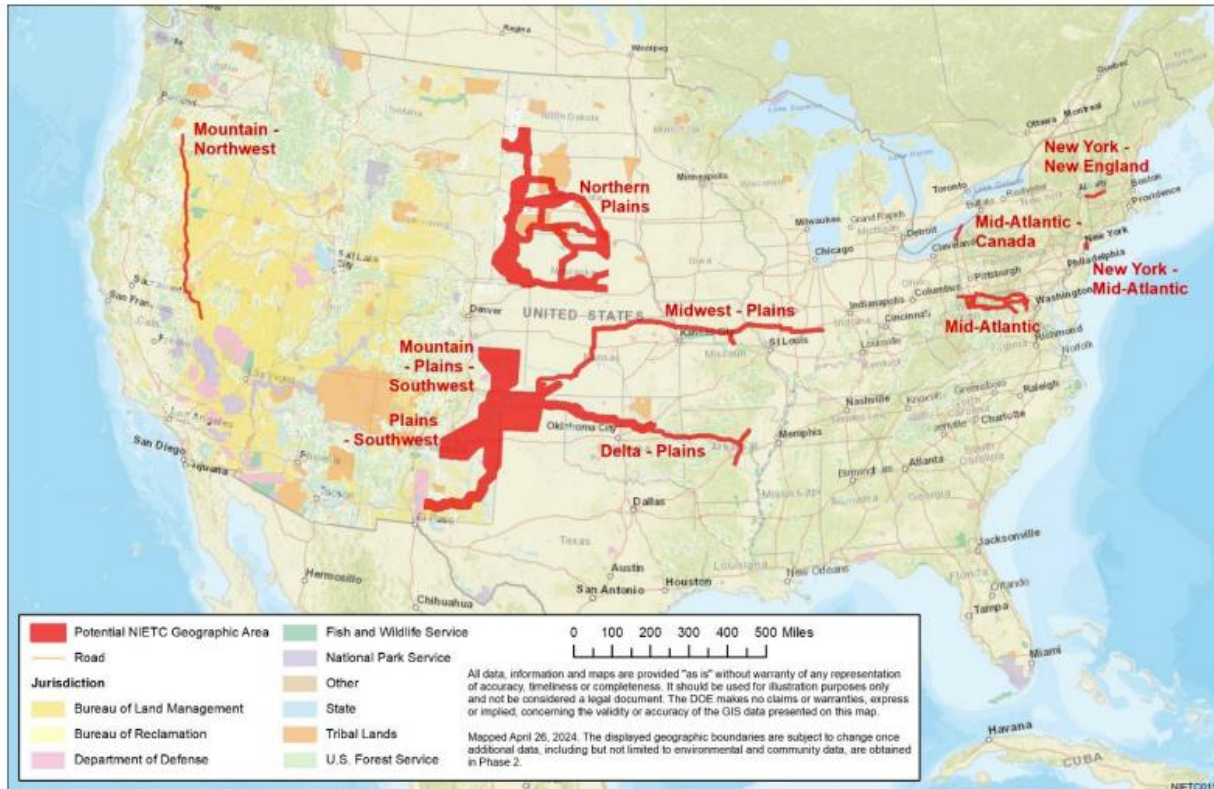


# LANDMARK RESOURCE FIRM

## National Interest Electric Transmission Corridors (NIETC)

### Potential NIETC Geographic Areas



### Background

The Biden-Harris Administration has set national goals to reduce U.S. greenhouse gas emissions at least 50% below 2005 levels by 2030 and to reach net zero emissions by 2050. These objectives and timetables were initiated under Executive Order 14008<sup>1</sup> by directing the National Climate Taskforce to develop the [Nationally Determined Contribution \(NDC\) for decarbonization for formal submittal under the Paris Accord](#). These goals include transition to a 100% clean electric power sector by 2035, which would require an estimated increase in transmission system capacity of between 1.3 to 2.9 times the amount of existing transmission capacity. This whole-of-government, whole-of-economy, executive driven energy transition is sure to impose significant congestion on the grid with a corresponding increase of consumer costs. Instead of the federal government recognizing the inadequacy of renewable energy sources and the significant costs and impacts on the human and natural environment, Department of Energy is seeking to establish

<sup>1</sup> (EO 14008 Part 1 Sec. 102(e)) - Directed the United States to immediately begin the process of developing its nationally determined contribution (NDC) for decarbonization under the Paris Agreement. "The NDC is an absolute economy-wide emissions reduction target."

National Transmission Corridors to accommodate the influx of wind, solar, as well as Artificial Intelligence (AI) Data Centers which require massive amounts of energy.

The passing of the Infrastructure Investment and Jobs Act of 2021 amended the Federal Power Act (FPA) in order to give Department of Energy broad discretion to establish National Interest Electric Transmission Corridors (NIETCs) so the Federal Energy Regulatory Commission (FERC) can permit interstate electric transmission facilities. On December 15, 2022, FERC issued a Notice of Proposed Rulemaking to amend its existing regulations for permits to site interstate electric transmission facilities. The rule revised existing regulations governing applications for permits to site electric transmission facilities under section 216 of the Federal Power Act, as amended by the Infrastructure Investment and Jobs Act of 2021.

DOE finished their triannual National Transmission Needs Study in October of 2023. DOE is now finished with phase 2 of the NIETC Designation Process establishing a preliminary list of potential NIETCs issued pursuant to section 216(a) of the Federal Power Act. As noted by the 9<sup>th</sup> circuit U.S. Court of Appeals in 2011,

*“ . . . NIETCs . . . create new federal rights which includes the power of eminent domain that are intended to, and do, curtail rights traditionally held by the states and local governments.”<sup>2</sup>*

The Midwest-Plains potential NIETC is an approximately **5-mile-wide, 780-mile-long east-west geographic area that includes parts of Kansas, Missouri, Illinois, and Indiana**, and portions of an existing 345 kV transmission facility. The Northern Plains potential NIETC is comprised of multiple sections, each from **10 to 50 miles wide and up to 400 miles from north to south and 300 miles from east to west, located in parts of North Dakota, South Dakota, and Nebraska.**<sup>3</sup>

It is important to note that there are no active designations of National Corridors at present. In 2007, the U.S. Department of Energy designated two National Interest Electric Transmission Corridors, where energy companies were granted unprecedented access to federal eminent domain authority to streamline siting of transmission lines. These NIETC designations were successfully challenged and vacated by the U.S. Court of Appeals for the 9<sup>th</sup> circuit.

Because FERC’s siting responsibilities rest on the designation of National Corridors, the Infrastructure Act amendments to FPA section 216 questionably expanded DOE’s authority to establish National Corridors to include geographic areas that are *expected* to experience such constraints or congestion, in addition to those areas currently experiencing those conditions. The Infrastructure Act also established a \$2.5 billion Transmission Facilitation Program which needs the designation of NIETCs to unlock the finance. This program would allow DOE to enter into public-private partnerships to co-develop transmission projects within NIETCs. For transmission

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<sup>2</sup> *Calif. Wilderness Coalition v. U.S. Department of Energy*, No. 08-71074 (9th Cir. Feb. 1, 2011)

<sup>3</sup> U.S. Department of Energy Grid Deployment Office Initiation of Phase 2 of National Interest Electric Transmission Corridor (NIETC) Designation Process: Preliminary List of Potential NIETCs Issued Pursuant to Section 216(a) of the Federal Power Act May 8, 2024

facilities designated as necessary to the national interest under the FPA, there is a \$2 billion Transmission Facility Financing loan program<sup>4</sup> available to developers to support such facilities.

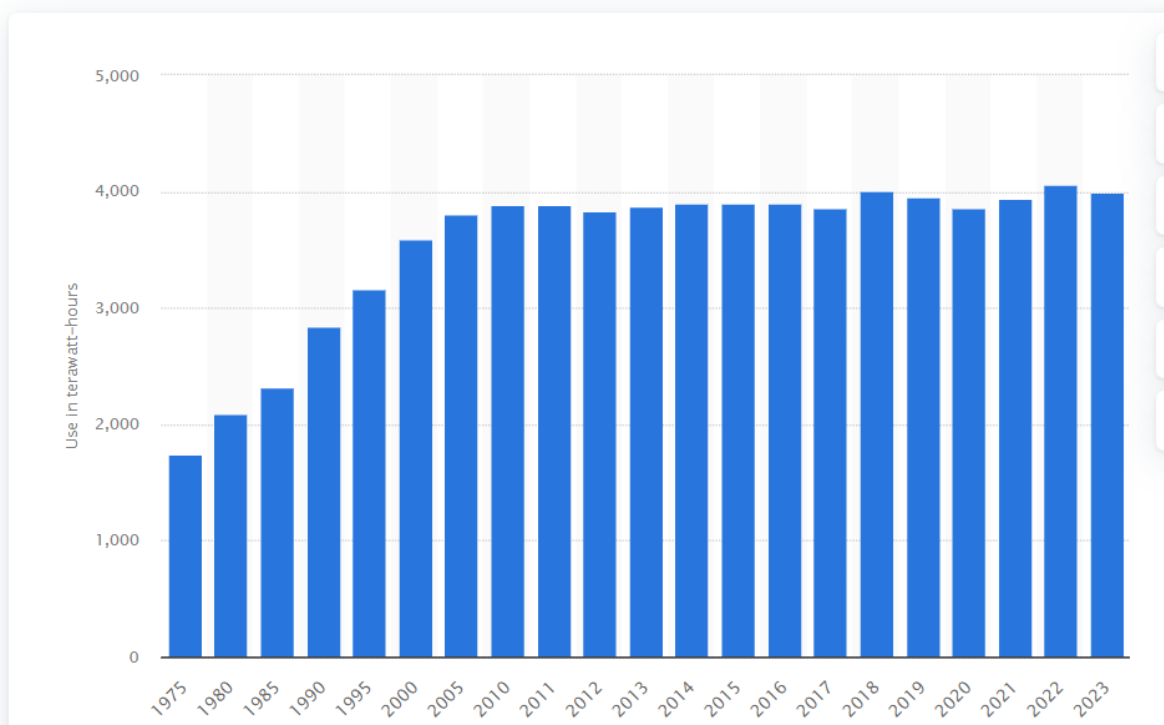
The projected grid congestion and constraints are caused by short-sighted government policy focused on electrification (electric appliances, vehicles, etc.) renewable energy infrastructure,<sup>5</sup> and the development of Artificial Intelligence data centers which consume massive amounts of energy.<sup>6</sup> Running an internet search using AI consumes more than ten times as much energy as a traditional Google search. As the chart below shows, constraints on the grid are not caused by consumers and household demand. Federal Agencies failed to consider the cumulative impacts on the people within these states and the nation at large as a result of the subsidized buildout of wind and solar farms and the use of AI as an arbiter of virtually all human activities and information.

The chart below shows<sup>7</sup> the actual electricity end use has remained stable for nearly 20 years. The projected congestion and constraints on the grid by Department of Energy is the result of whole-of-government, whole-of-economy central planning.

[Energy & Environment](#) > [Energy](#)

## Electricity end use in the United States from 1975 to 2023

*(in terawatt-hours)*



<sup>4</sup> [Transmission Facility Financing Program | Department of Energy](#)

<sup>5</sup> [Stranded Assets and Renewables: How the energy transition affects the value of energy reserves, buildings and capital stock - a REmap working paper \(irena.org\)](#)

<sup>6</sup> In January, the International Energy Agency (IEA) [forecast](#) that global data center electricity demand will more than double from 2022 to 2026, with AI playing a major role in that increase. [How AI Is Fueling a Boom in Data Centers and Energy Demand | TIME](#)

<sup>7</sup> [U.S. electricity consumption 2023 | Statista](#)

## “Generation Shifting” Policy Efforts Have not Analyzed Environmental or Economic Impacts<sup>8</sup>

It is concerning that Department of Energy wants to site massive transmission corridors through states, counties, and private lands in order to accommodate executive climate policy objectives established by international conventions. The lack of disclosure on the part of the federal government relating to the implications of accomplishing such goals as Net-Zero by 2050 with the [extensive international guidelines](#) to be followed is in violation of the primary intent of the rule of law and due process which employ the essentials of public scrutiny, without which the individual citizen is left exposed to unrestrained power.

A jointly written [white paper](#) by Level 10 Energy, The Nature Conservancy, and the Audubon Society<sup>9</sup> concede to the fact that *“In the U.S. alone, [it’s estimated](#) that in order to achieve net-zero GHG emissions by 2050, developers will need an area of land greater than that of Colorado and Wyoming combined to construct new renewable energy projects.”* As we now see from the Department of Energy, the transmission corridors needed for accommodating such buildout is extensive.

Simultaneously the Global Biodiversity Frameworks 30x30 initiative adopted by executive order in the Biden administration [EO 14008](#) is seeking the permanent conservation of 30% of lands and waters by 2030. The combination of lands needed for wind and solar development, transmission corridors, and this conservation initiative will remove other productive uses from a substantial amount of U.S. lands having significant impacts on the economic development and the wellbeing of the American citizen. This does not add up, and will devastate the United States environment with massive implications for property rights, and reliable affordable energy.

These processes represent an active distortion of the market order by penalizing the efficient for the benefit of the inefficient. The federal government has failed to perform a comparative cost benefit analysis assessing the impacts associated with government coercively directing private investment with complete disregard for consumer choice.<sup>10</sup>

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<sup>8</sup> Supreme Court reversed the D.C. Circuit, by rejecting the Clean Power Plan because EPA lacked authority to require “*generation shifts*.” West Virginia v. EPA, the court said that including generation-shifting as the BSER would inappropriately transform EPA’s authority from reducing pollution to setting the national generation mix.

<sup>9</sup> [TNC, Partners Advocate for an Energy Transition with New Paper \(nature.org\)](#); [BeyondCarbonFreeFinal.pdf \(nature.org\)](#); [Net-Zero America Project \(princeton.edu\)](#)

<sup>10</sup> Murray N. Rothbrand - *Man, Economy, and State A Treatise on Economic Principles, with Power and Market* (Ludwig Von Mises Institute, Scholars Edition, Second Edition” 2009) *Subsidies and Transfer Payments* p. 942 (Originally published, 1962) - “*Transfer spending or subsidies distort the market by coercively penalizing the efficient for the benefit of the inefficient. Subsidies prolonged the life of inefficient firms and prevent the flexibility of the market from fully satisfying consumer wants. The greater the extent of government subsidy, the more the market is prevented from working, the more resources are frozen in inefficient ways, and the lower will be the standard of living of everyone. Furthermore, the more government intervenes and subsidizes, the more cast conflict will be created in society, for individuals and groups will benefit only at one another’s expense.*”

Renewable energy as a grid generation source of electricity has proved unprofitable<sup>11</sup> and thus requires significant subsidies and allowances by government actors which manipulates the market order by directing investments away from efficiency and imposes excess costs on consumers and rate payers in the short and long term.

*“Central planning is not a mature method of organizing the economic system but, even at best, the benevolent but unscientific bungling of the few, striving vainly to decide for the many consumers what those consumers can only decide rationally for themselves. It is, therefore, to be expected that in the communities where attempts are made to impose a central plan there will be gross misdirection of production and widespread neglect of the needs of the consumer.”*

- John Jewkes, *Ordeal by Planning*, Macmillian and Co. LTD London 1948, ch. 7 *Planning as a Scientific Method*, p. 146

Wind and solar have a *power density* which pales in comparison to oil and gas systems which produce around a thousand times as much power per unit of land surface area. Wind and solar being highly subsidized by the government show no accountable return to the Federal Government. Reclamation-related liabilities for wind and solar, being vulnerable and relatively short-term systems, are not adequately assessed. Not only do wind and solar lack recovery mechanisms, but there is also a significant amount of development to date which constitute stranded assets with no investment capital to integrate into the grid, hence the need for DOE's transmission corridors. Further the forced phase out of fossil fuels and the associated transition to renewables will create significant accumulation of stranded assets in the oil and gas sectors.<sup>12</sup> This also poses significant shocks to State and local tax revenues, resources, and associated goods and services which have long stood upon stable and reliable conventional energy sources and systems.<sup>13</sup>

As noted above the power density of wind and solar is not exceptional and it takes an exponential amount of land surface area per energy generation rate in developing these weather dependent energy generation sources as shown in the power density chart below.<sup>14</sup>

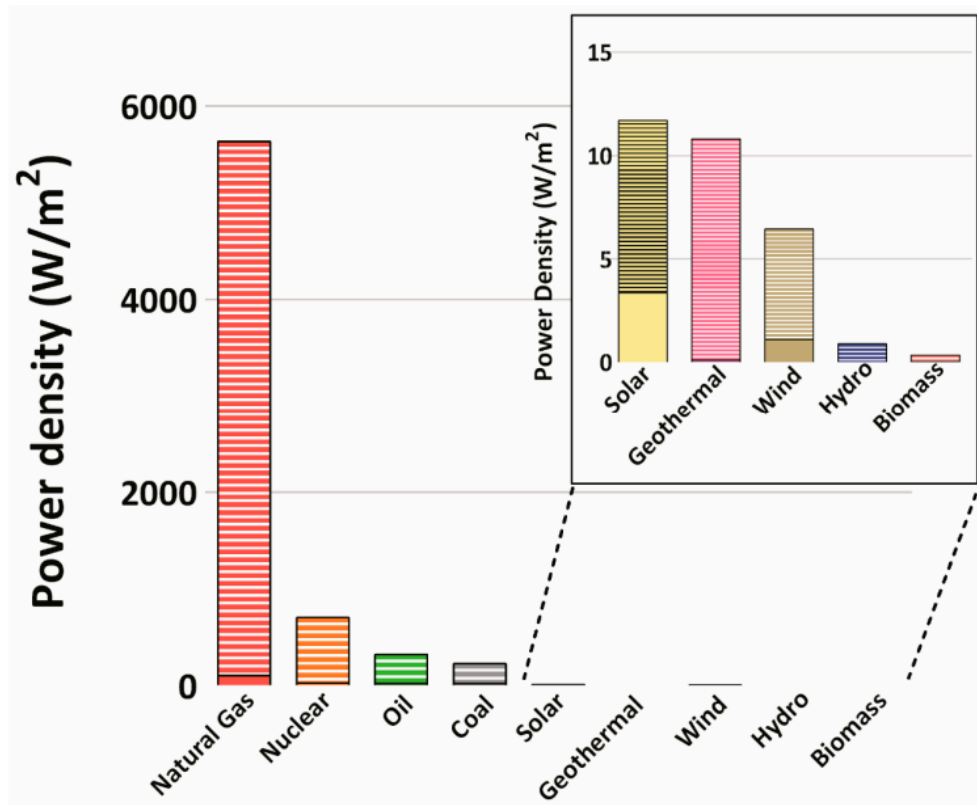
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<sup>11</sup> “It is only the prospect of profit which directs production into those channels in which the demands of the consumer are best satisfied at least cost.” Ludwig Von Mises (1881-1973), *SOCIALISM an Economic and Sociological Analysis* (Liberty Fund Indianapolis 1981) chapter 6 p.116-119 *The Organization of Production under Socialism*

<sup>12</sup> “The transition to a global low-carbon economy entails . . . the fast phase-out of fossil-fuel production, which will necessitate the write-down of major, functioning capital assets and reserves reflected as assets on fossil energy companies’ balance sheets.” [Stranded fossil-fuel assets translate to major losses for investors in advanced economies | Nature Climate Change](#)

<sup>13</sup> “As the world transitions away from greenhouse-gas-emitting activities, . . . fossil fuel companies and their investors face growing financial risks (known as transition risks), including the prospect of ending up with massive stranded assets.” [Stranded assets could exact steep costs on fossil energy producers and investors | MIT News | Massachusetts Institute of Technology](#)

<sup>14</sup> ÓhAiseadha C, Quinn G, Connolly R, Connolly M, Soon W. Energy and Climate Policy—An Evaluation of Global Climate Change Expenditure 2011–2018. *Energies*. 2020; 13(18):4839. <https://doi.org/10.3390/en13184839>



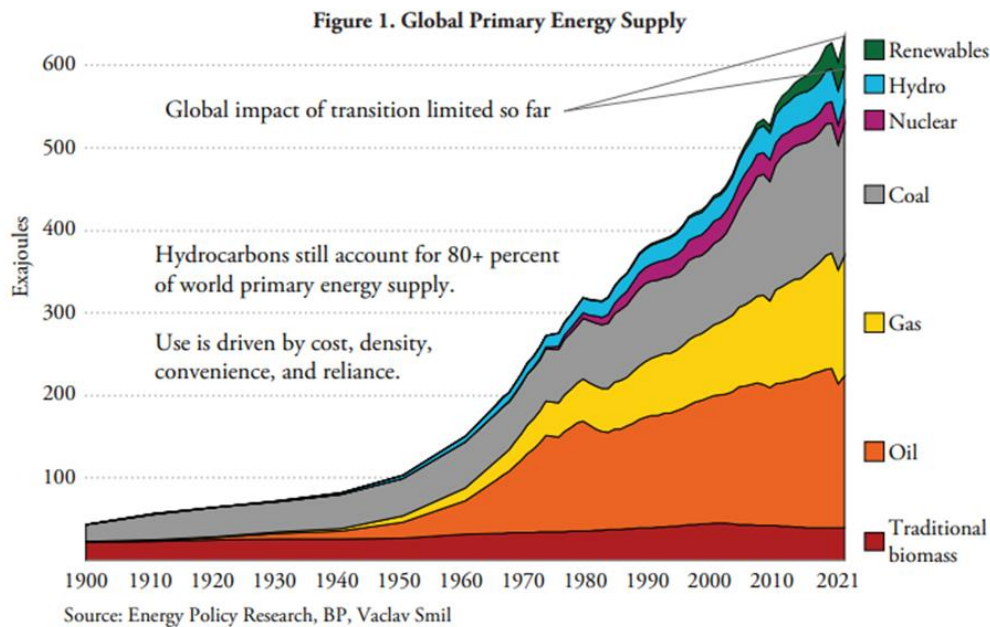
*“In comparing energy options, it is useful to calculate how much land is required for each energy technology and how much energy this can supply. This calculation is known as the **power density** and is defined as the energy generation rate per time per unit ground area (expressed as  $W/m^2$  ).”*

And that,

*“It can be seen that the power densities of nonrenewable energy (non-RE) sources are up to three orders of magnitude greater than those of renewable energy (RE) sources. **In other words, they produce about a thousand times as much power for any given land surface area.** Natural gas yields the highest median power density by far.”<sup>15</sup>*

[Smil \(2005\)](#) points out that the proposed energy transition to renewables calls for “*an order of magnitude larger displacement of dominant resources than during the last major energy transition.*” Although, as the Energy Policy Research Foundation in their [report which critically assesses the IEAs Net Zero Scenario](#) clearly shows that there is not a history of an energy transition, but only energy addition as seen in the chart below:

<sup>15</sup> [Energies | Free Full-Text | Energy and Climate Policy—An Evaluation of Global Climate Change Expenditure 2011–2018 \(mdpi.com\)](#)



The idea that a whole of government and whole of economy transition to renewables is feasible is a dangerous proposition which is being unlawfully propagated as we speak. As renowned economist Milton Friedman once [remarked](#), *“inflation is a result of inaccurate assessment of the true cost of government policies as much as it is a result of government spending itself”* (emphasis added). With the IRA itself being estimated to [cost the American tax-payer around \\$1.2 trillion](#), three times to original estimate from the Congressional Budget Office,<sup>16</sup> the failure of executive departments to assess true costs of these government policies is in direct violation of the Administrative Procedures Act,<sup>17</sup> and fails to meet minimum standards of rationality.<sup>18</sup>

### **Whole of Economy Climate Policy Agenda Picking Winners and Losers in Energy Markets Through Discriminatory Subsidies and Permitting Processes**

As evidenced by [other rules being promulgated by Department of Interior](#) agencies, this administration is picking winners and losers in the energy sectors as well as land leasing and permitting frameworks. These processes are resulting in vast transformative impacts on the national economy and political process with no cumulative accountability to the public, disregard by federal departments of domestic procedural safeguards, while ceding the National interests of the United States lands and waters to foreign influence at the expense of the American taxpayer.

<sup>16</sup> U.S. Senate Committee on Energy and Natural Resources, Ranking Member John Barrasso, Energy and Commerce Chair Rogers - [Irresponsible, Reckless, & Alarming: IRA Will Make the United States Poorer and China Richer](#)

<sup>17</sup> 5 U.S.C. § 706(2)

<sup>18</sup> *10 Ring Precision, Inc. v. Jones*, 722 F.3d 711, 723 (5<sup>th</sup> Cir. 2013)

Nicolai Tangen, chief executive of the world's largest sovereign wealth fund predicted that the Biden administrations obsession with "greening" the economy will mean that high inflation is a permanent fixture for the foreseeable future. He [explained](#) that:

*“companies benefitting from economically ineffective and inefficient projects through applying for green subsidies has fundamentally flipped free-market principles on their head, an arrangement that is sure to invite economic chaos.”*

The timetables and targets expressed in numerical terms for decarbonization, and the associated international commitments have not been approved by representatives accountable to the electorate, and are currently impacting individual citizens, homes, businesses and governments with the inflationary result of pumping dollars into the economy while regulating the material conversion of resources for consumption, creating high demand and too little commodity driving up costs across the board.<sup>19</sup> And all this is being done on purpose to target and destroy traditional industries which have consistently provided stable rates and reliable energy to ratepayers and consumers. If the full intent of these central planners are realized the reliability of energy and other necessary goods and services will become a thing of the past and culminates in what could be called a regulatory taking of the entire country.

## Conclusion

“The planners currently within government using bureaucratic policy and regulation jointly subscribe to many economic articles of faith which constitute the breeding-ground for some of the major economic fallacies of our times. The itch for novelty goes far to explain two very common attitudes taken up by the economic planner. First, he is much more concerned with the distant future than with the present, and is prepared to make immediate sacrifices, and force these sacrifices on others, for some hypothetical gain in the future. The planned economy always promises 'jam tomorrow,' always calls for immediate sacrifices by the consumer, always occupies itself with capital investment on a large-scale whatever the present poverty of the consumer. Second, the planner is prepared to go ahead with his schemes even if it means leaving all the difficult and unanswered questions to a wiser future, as if time itself could heal the wounds of ignorance.

I am convinced that, whatever may be the right ordering of society, economic regimentation of the kind to which we are now subject is the wrong answer to our problems and is an arrangement which, so soon as it unfolds its inevitable consequences, will be repugnant to everyone of liberal

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<sup>19</sup> [The Inflation Reduction Act Won't Reduce Inflation - WSJ](#) As former Treasury official Stephen Miran has explained, “To address inflation, we first have to identify its roots in a demand-supply imbalance. The Inflation Reduction Act will not only fail to address this imbalance, it will exacerbate it. At best there will be an insignificant effect on inflation. At worst it will push inflation higher and further erode American families' spending power.”



instincts. Unfortunately, by the time that the lesson is learned the hard way from bitter, accumulated experience, the right of choice may no longer be ours. . . Economic confusion is the breeding ground for totalitarian ideas. . . The tragedy is that the planned economy is, in itself, one of the main sources of the confusion which drives men into political mania. So, the first task, as it seems to me, is to do what one can to bring about greater maturity in economic thinking so that, without suffering all the pains that it is capable of inflicting upon us, we may come to recognize the idea of centrally planned economy for what it really is - an attempt to build another Tower of Babel.”<sup>20</sup>

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<sup>20</sup> (excerpted from) John Jewkes, *Ordeal By Planning*, Macmillian and Co. LTD London 1948